

REMARKS

The Office Action mailed March 27, 2008, has been received and carefully reviewed. The following remarks form a full and complete response thereto. Claims 2-13 are pending in the application and are submitted for reconsideration.

The Applicant acknowledges the allowance of claims 3, 4, 6, and 8.

Claims 2, 4, 7 and 10-13 were rejected under 35 U.S.C. § 102(b), second paragraph, as being anticipated by DE 10044930 ("Beki") in view of DE 19540819A1 ("Nowack"). Applicants respectfully traverse the rejection.

At the outset, Applicant submits that this rejection set forth under 35 U.S.C. 102(b) is improper and must be withdrawn because, as admitted in the Office Action, Beki fails to disclose at least the synchronizing device of claim 13, and therefore fails to disclose each and every element of the claims. See, Office Action at section 2. Thus, the Office Action must be withdrawn.

Treating the rejection as an obviousness-type rejection, the Applicant submits that the pending claims recite subject matter that is neither disclosed nor suggested by the combination of cited prior art.

Independent claim 13 recites a roll-over protection device for a motor vehicle. The device comprises a roll bar provided with a nearly U-shaped design, which has a transverse yoke and lateral limbs that leave a loading opening unobstructed and extending to span substantially the width of the vehicle. The lateral limbs (4A, 4B) are displaceable along fixed guiding devices in order to transfer the roll bar out of a lowered non-operational position into a raised supporting position. The roll-over protection device also comprises a central retaining and activating device for the roll bar. The

central retaining and activating device are controlled by an actuator. The roll-over protection device further comprises a synchronizing device connected to both limbs of the roll bar to synchronize the displacement of the limbs along the guiding devices.

Beki and Nowack fail to teach or suggest a roll bar provided with a nearly U-shaped design having lateral limbs. Beki discloses a roll bar system that comprises an M-shaped bar. See Abstract and Figure 1 of Beki. Nowack discloses a straight roll bar linked to vertically extending side bars. See, e.g., Figs. 1 and 2 of Nowak. Thus, neither reference teaches or suggest the claimed roll bar.

Additionally, Nowack fails to teach or suggest a synchronizing device as claimed in claim 13 and therefore, fails to cure the stated deficiencies of Beki. To assist with this discussion, a machine translation of Nowack is attached hereto.

The Office Action points to part 22 of Nowack as a disclosure of a synchronizing device. In Figure 1, cross beam 22 is used for synchronizing engagement and disengagement of the roll bar 3 through latch members 19 and 23 in combination with actuating spring 24. The configuration disclosed by Nowak does not include a synchronizing device connected to both limbs of the roll bar to synchronize the displacement of the limbs along the guiding devices. The cross beam 22 cannot synchronize the movement of the limbs of the roll bar along the guiding devices as claimed in claim 13 of the present application, upon which claims 2-12 depend. In fact, Nowack discloses that the side bars are displaced in turn, one by one not synchronized:

Indeed, it is necessary that the first side bar 1 moves upward at first for a small distance d, so that the second side bar 2 can be unlocked. However, the magnitude of this upward

movement is very small. It is a few millimeters, at the most about 1 cm, after which the second side bar 2 follows. This corresponds to an inclination α of the roll bar 3 of few tenths degrees of angle.

Col. 4, first paragraph; machine translation of Nowack at paragraph 20, (emphasis added). Thus, the combination of Beki and Nowack fail to disclose or suggest each and every element of claim 13, upon which claims 2-12 depend. Accordingly, the Applicant requests that the rejection of claims 2, 4, 7 and 10-13 and the objection of claims 3, 5, 6, 8, and 9 be withdrawn, and that claims 2-13 be allowed.

In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

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